



## **Town of Moultonborough Zoning Board of Adjustment**

### **Notice of Decision**

### **Request for Variance**

### **Joseph & Susan Couture/Map 99, Lot 112**

**May 7, 2015**

**Applicant:**     **Joseph & Susan Couture**  
                      **6 Hale Street**  
                      **Lawrence, MA 01843**

**Location:**     **254 Paradise Drive, Moultonborough, NH (Tax Map 99, Lot 112)**

On May 6, 2015, the Zoning Board of Adjustment of the Town of Moultonborough opened a public hearing on the application of Joseph & Susan Couture (hereinafter referred to as the "Applicant" and/or "Owner") to obtain a Variance from MZO Article III. B (1) & (3) to expand an existing nonconforming deck to accommodate a wheelchair with the closest point being 1 ft. from the side property line where a 20 ft. setback is required, and where the ramp will be 22 ft. from the front setback where 25 ft. is required on the parcel located in the Residential Agricultural (RA) Zoning District.

Based on the application, testimony given at the hearings, and additional documentation and plan(s), the Board hereby makes the following findings of fact:

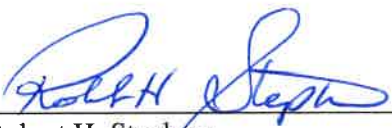
- 1) The property is located at 254 Paradise Drive, Moultonborough, NH (Tax Map 99, Lot 112).
- 2) The applicants are the owners of record for the lot.
- 3) Joseph Couture presented the application at the Public Hearing to the Board.
- 4) The lot is located in the Residential Agricultural (RA) Zoning District, and the residential use is a use allowed by right in that district.
- 5) The proposal is to expand an existing nonconforming deck to accommodate a wheelchair with the closest point being 1 ft. from the side property line, where a 20 ft. setback is required, and where the ramp will be 22 ft. from the front setback where 25 ft. is required.
- 6) The applicant is requesting relief in accordance with NH RSA 674:33.V, disability hardship.
- 7) Kevin Quinlan spoke in favor of the granting of the variance, as both the President of Balmoral Association and as a friend.
- 8) No members of the public spoke against the request for variance.
- 9) Granting the Variances would not be contrary to the public interest as the proposed construction will not alter the essential character of the neighborhood because the encroachments on today's setback

requirements are similar to the rest of the neighborhood, and the subject dwelling is set back further from the street which results in the ramp blending in with the neighborhood.

- 10) Granting the Variances would be consistent with the spirit of the Ordinance because the proposed construction will not alter the essential character of the neighborhood because many nearby homes and accessory building do not comply with today's setback requirements.
- 11) By granting the Variances, substantial justice would be done because there is no public benefit to be gained by requiring adherence to the dimensional requirements, while the loss to the applicant would be great by denying reasonable access and use for a person with a physical disability.
- 12) Granting the Variances would not diminish the value of surrounding properties as the proposed construction would be new, thereby increasing neighborhood valuations.
- 13) Pursuant to RSA 674:33.V, the Zoning Board of Adjustment may grant a variance from the terms of a zoning ordinance without finding a hardship arising from the condition of a premises subject to the ordinance, when reasonable accommodations are necessary to allow a person or persons with a recognized physical disability to reside in or regularly use the premises, provided that: (a) Any variance granted under this paragraph shall be in harmony with the general purpose and intent of the zoning ordinance. (b) In granting any variance pursuant to this paragraph, the zoning board of adjustment may provide, in a finding included in the variance that the variance shall survive only so long as the particular person has a continuing need to use the premises. The applicant averred that a member of the family did in fact have said physical disability, therefore the hardship criterion does not apply in this case.
- 14) The Zoning Board of Adjustment chose to place a restriction on the variance that the that the metal ramp be removed at such time as the person with the physical disability no longer resides or regularly uses the premises.
- 15) On May 6, 2015, the Zoning Board of Adjustment voted by a vote of five (5) in favor (Stephens, Nolin, St. Peter, Jenny, Onthank) and none (0) opposed to grant the request for the variance to expand the existing nonconforming deck to accommodate a wheelchair with the closest point being 1 ft. from the side property line, and where the ramp will be 22 ft. from the front setback subject to a condition that the metal ramp be removed at such time as the person with the physical disability no longer resides or regularly uses the premises, and further to close the Public Hearing, and further to direct Staff to draft a formal Notice of Decision for review and approval for signing at the next meeting.

The Board of Adjustment, on May 20, 2015, approved this formal Notice of Decision language and authorized the Chairman to sign the Notice of Decision and send to the applicant and place same in the case file by a vote of three (3) in favor (Stephens, Nolin, St. Peter) and two (2) abstentions (Zewski, Bickford) as they were not present for the hearing on May 6, 2105.

The decision made to grant the variance on May 6, 2015, shall not take effect until thirty (30) days have elapsed and no request for rehearing has been filed in accordance with RSA 677:2, or that if such request has been filed, it has been dismissed or denied, in accordance with RSA 677:3.

  
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Robert H. Stephens  
Chairman, Zoning Board of Adjustment

Date 5-21-15